

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STEVEN AMISON,)	CASE NO. 5:14cv987
)	
)	
PLAINTIFF,)	JUDGE SARA LIOI
)	
vs.)	
)	AMENDED ORDER
)	OF DISMISSAL
OFFICER LEGG,)	
)	
)	
DEFENDANT.)	

This matter is before the Court upon the recommendation of Magistrate Judge Burke that the case be dismissed without prejudice for failure of the plaintiff to prosecute this action. (Doc. No. 15 (Report and Recommendation [“R&R”]).) Plaintiff’s complaint against the Canton, Ohio Police Department, and Officers Legg and Shackle, alleges the use of excessive force by Officer Legg. (Doc. No. 1.)

After dismissing the Canton Police Department and Officer Shackle from the case, the Court referred this matter to Magistrate Judge Burke for general pre-trial supervision. (Doc. Nos. 6 and 7.) As detailed in the R&R, plaintiff has failed update his address with the Clerk as ordered by Magistrate Judge Burke and to participate in a scheduled telephonic status

conference. (R&R at 54-55.¹) Magistrate Judge Burke previously warned plaintiff that failure to file a change of address, and to participate in the scheduled telephonic conference, may result in the dismissal of his case for failure to prosecute. (Doc. No. 12.)

The R&R was mailed by the Court to plaintiff at his address of record at the Lorain Correctional Institute on January 20, 2015. The mailing was returned to the Court with a hand-written note “released 10/1/2014” and a typed notation “return to sender, refused, unable to forward.” (Doc. No. 16.)

Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C).

The Court has attempted to serve the plaintiff with a copy of the R&R, but is unable to do so because, as of the date of this Amended Order of Dismissal, plaintiff has not provided the Court with a current mailing address. No objections have been filed to the R&R. The failure to file written objections to the report and recommendation of a Magistrate Judge constitutes a waiver of a de novo determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed Magistrate Judge Burke’s Report and Recommendation and adopts the same. Accordingly, plaintiff’s complaint is dismissed without prejudice for

¹ References to page numbers are to the page identification numbers generated by the Court’s electronic docketing system.

failure to prosecute. The Order of Dismissal filed on February 26, 2015, Doc. No. 17, is vacated. This case is closed. The Clerk is directed to mail a copy of this Amended Order of Dismissal to plaintiff at his address of record.

IT IS SO ORDERED.

Dated: February 26, 2015



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE